IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7544 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GEETABEN J MISTRY

Versus

VEERPUR URBAN CO-OP BANK LTD

Appearance:

1. Special Civil Application No. 7544 of 1990

MR NS SHETH for Petitioner No. 1

MR GAURANG H BHATT for Respondent No. 1

MS MANISHA LAVKUMAR, AGP for Respondent No. 2-3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 05/04/2002

ORAL JUDGEMENT

1. The petitioner seeks a direction on the respondents to employ her on compassionate ground. According to her, her husband was working as a

Clerk-cum-Cashier from 1st April,1975 to 11th March,1985. He passed away on 11th March,1985 at a young age. Thereafter, the petitioner applied to the respondent no.1-Cooperative bank for a job. According to the petitioner, there was a custom existent in the nationalized and cooperative banks to give compassionate appointment in the event of death of an employee to his dependent. It is further the case of the petitioner that the management of the respondent no.1-Cooperative Bank asked her to complete studies upto 10th Standard, if she wanted an appointment in the bank. Therefore, she passed the 10th Standard examination in March, 1988. She sent a notice dated 5th March, 1990 through her Advocate to the Manager of the respondent no.1-Cooperative Bank in the matter, but there was no response. Therefore, another notice was sent on 30th May, 1990, again without any response. According to the petitioner, the respondent no.1-Cooperative Bank was an authority performing public functions and controlled and supervised by the Reserve Bank of India, and therefore, relief could be sought against the respondent no.1-Cooperative Bank.

2. In the affidavit-in-reply filed on behalf of the respondent no.1-Cooperative Bank, it is stated that the petitioner's husband was working as an Apprentice Clerk from 1st July, 1975 and remained in employment of the respondent no.1-Cooperative Bank till 11th March, 1975. It is denied that the respondent no.1-Cooperative Bank promised the petitioner to provide employment on her passing the 10th Standard. It is stated that there is no custom or practice or precedent in the respondent no.1-Cooperative Bank since its establishment on 4th November,1973 to provide employment to the family members of the deceased employee of the bank. It is stated that the respondent no.1-Cooperative Bank consists of only seven staff members including the Manager and it does not have any other Branch. All these posts are already filled in. It is also stated that the respondent no.1-Cooperative Bank has been declared as a weak bank by the Reserve Bank of India since five to six years and it was classified in audit category "C". There is very little improvement in its administration. It is stated that the District Registrar of Cooperative Society had issued instructions to the respondent no.1-Cooperative Bank in May, 1996 to immediately convert the respondent no.1-Cooperative Bank into Credit Cooperative Society, failing which it would be wound up. It does appear from the affidavit-in-reply that the condition of the respondent no.1-Cooperative Bank is pathetic. The petitioner can have no right for being appointed on compassionate ground. There are no statutory rules or

orders which would enable considering the petitioner's case for compassionate appointment in the respondent no.1-Cooperative Bank. The contention on the doctrine of promissory estoppel cannot carry the petitioner's matter any further, because passing of 10th Standard Examination cannot be made a ground for contending that she had passed the examination on being assured that she would be given an employment. The respondent no.1-Cooperative Bank bank has denied having made any such offer to the petitioner. In this view of the matter, the respondents cannot be directed to give any compassionate appointment to the petitioner. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

It will be open for the respondent no.1-Cooperative Bank bank to make ex gratia payment to the petitioner as earlier offered to her as stated by the learned Counsel for the respondent no.1-Cooperative Bank

(R.K. Abichandani,J.)
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